

PATENT APPLICATION

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: Bronwyn Syiek, et al.
Serial No.: 10/600,249
Filing Date: June 20, 2003
Confirmation No.: 5556

Examiner: Shawki Saif Ismail
Art Unit: 2155
Atty Docket No.: 35581000003

Title: **APPARATUS AND METHOD FOR PRECLUDING E-MAIL DISTRIBUTION**

Mail Stop AF
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

DECLARATION UNDER 37 C.F.R. § 1.131

Dear Sir:

I, Bronwyn Syiek, a citizen of the United Kingdom residing at 111 Baywood Avenue, Hillsborough, California 94010, do hereby declare that:

1. I am one of the joint inventors of the subject matter described and presently claimed in U.S. Patent Application No. 10/600,249 (the "Invention"), filed in the U.S. Patent and Trademark Office on June 20, 2003, titled "Apparatus and Method for Precluding E-mail Distribution" (the "Application").

2. Nina Bhanap, Rakesh Gowda and Ramesh Guntha are the other joint inventors (the "Co-Inventors") of the Invention.

3. With the Co-Inventors, I conceived the Invention before January 23, 2003.

4. From a date prior to the date of conception and through the date hereof, I have been employed by QuinStreet, Inc. ("QuinStreet"), the assignee of record of the Application.

5. On information and belief, each of the Co-Inventors has been employed by QuinStreet from a date prior to the date of conception and through the date hereof.

6. The Co-Inventors and I developed and/or directed other QuinStreet employees, agents and/or contractors in developing a software product and service called EmChoice. EmChoice was first put into production by, offered for sale by and used by customers of QuinStreet prior to January 23, 2003. From a date prior to January 23, 2003, the EmChoice product and service, when implemented (e.g., installed on one or more suitable computing devices and/or coupled to a suitable network), was (1) capable of performing or causing the performance of each of the method claims presently pending in the Application; and (2) contained each of the features of each of the apparatus claims presently pending in the Application.

7. Exhibit A shows in tabular form, among other things, files containing software code that is necessary to implement the EmChoice product and service, their file location on a QuinStreet server or computing device and the dates each such file was created and last modified. On information and belief, the data presented in Exhibit A is a true and accurate copy of records made by QuinStreet and maintained by QuinStreet in its database records associated with EmChoice. As illustrated in the fourth and fifth columns (from the left), the majority of the files were last modified prior to January 23, 2003. Those files that were last modified on or after January 23, 2003 are redacted and represent either: (1) changes to the software files or new software files used to implement additional features not presently claimed in the Application or (2) changes to the software files or new software files used to more efficiently perform aspects of the claimed Invention. For example, changes to the new software code were, from time-to-time, made and new software code was, from time-to-time, added to the software files to improve the behavior of the EmChoice product and service from the perspective of QuinStreet's clients. Other information only tangentially-related to the production date of EmChoice has been redacted to preserve, among other things, the confidentiality of QuinStreet's business practices, trade secrets and other proprietary information.

8. Exhibit B illustrates in tabular form, among other things, historical data for four files containing software code that is also necessary to implement the EmChoice product and service. These four files are named "ServerProcess.java", "ServerReceive.java", "DedupNormal.java" and "ServerSend.java". Each of these four files is included as an entry in

Exhibit A and is necessary for implementation of EmChoice. On information and belief, the data presented in Exhibit B is a true and accurate copy of records made by QuinStreet and maintained by QuinStreet in its source code archiving and tracking system. The entries for each file are listed in reverse chronological order (i.e., from the most current date to the oldest date) and each represents a revision made to one of the four files. As illustrated in the second and fifth columns (from the left), a variety of revisions were made to each file since the date they were first created. Entries associated with revisions made on or after January 23, 2003 are redacted. Similarly, other information only tangentially-related to the production date of EmChoice has been redacted to preserve, among other things, the confidentiality of QuinStreet's business practices, trade secrets and other proprietary information. Those revisions made on or after January 23, 2003 represent either: (1) changes to the software files used to implement additional features not presently claimed in the Application or (2) changes to the software files used to more efficiently perform aspects of the claimed Invention. For example, changes to the new software code were, from time-to-time, made and new software code was, from time-to-time, added to the software files to improve the behavior of the EmChoice product and service from the perspective of QuinStreet's clients.

9. Exhibit C illustrates in tabular form, among other things, historical data relating to advertising agencies that used the EmChoice product or related services. On information and belief, the data presented in Exhibit C is a true and accurate copy of records made by QuinStreet and maintained by QuinStreet in its database records associated with EmChoice. As illustrated in the third and fifth columns (from the left), each of the entries was created prior to January 23, 2003, and the majority of the entries were last modified or otherwise establish use of EmChoice by certain advertising agencies prior to January 23, 2003. Information only tangentially-related to the production date of EmChoice or to the date EmChoice was used by certain advertising agencies has been redacted to preserve, among other things, the confidentiality of QuinStreet's business practices, trade secrets and other proprietary information.

10. Exhibit D illustrates in tabular form, among other things, historical data related to merchants that used the EmChoice product or related services from QuinStreet. On information and belief, the data presented in Exhibit D is a true and accurate copy of records made by

QuinStreet and maintained by QuinStreet in its database records associated with EmChoice. As illustrated in the third and fifth columns (from the left), each of the entries was created and last modified, or otherwise establish use of EmChoice by certain merchants prior to January 23, 2003. Information only tangentially-related to the production date of EmChoice or to the date EmChoice was used by certain merchants has been redacted to preserve, among other things, the confidentiality of QuinStreet's business practices, trade secrets and other proprietary information.

11. Exhibit E illustrates in tabular form, among other things, historical data related to merchants that used the EmChoice product or related services from QuinStreet. On information and belief, the data presented in Exhibit E is a true and accurate copy of records made by QuinStreet and maintained by QuinStreet in its database records associated with EmChoice. As illustrated in the fifth, sixth, seventh and ninth columns (from the left), the majority of each of the entries was created and last modified, or otherwise establish use of EmChoice by certain merchants prior to January 23, 2003. Information only tangentially-related to the production date of EmChoice or to the date EmChoice was used by certain merchants has been redacted to preserve, among other things, the confidentiality of QuinStreet's business practices, trade secrets and other proprietary information.

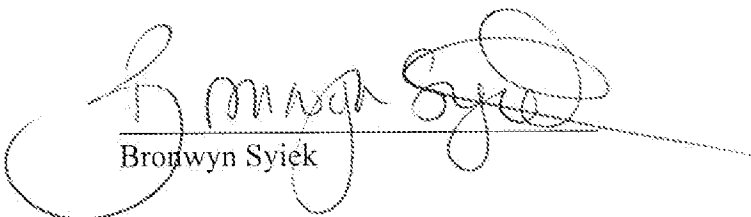
12. Exhibit F illustrates in tabular form, among other things, historical data related to list owners that used the EmChoice product or related services from QuinStreet. On information and belief, the data presented in Exhibit F is a true and accurate copy of records made by QuinStreet and maintained by QuinStreet in its database records associated with EmChoice. As illustrated in the sixteenth and eighteenth columns (from the left), the majority of each of the entries was created and last modified, or otherwise establish use of EmChoice by certain list owners prior to January 23, 2003. Information only tangentially-related to the production date of EmChoice or to the date EmChoice was used by certain list owners has been redacted to preserve, among other things, the confidentiality of QuinStreet's business practices, trade secrets and other proprietary information.

13. Exhibit G illustrates in tabular form, among other things, historical data related to list owners that used the EmChoice product or related services from QuinStreet. On information and belief, the data presented in Exhibit G is a true and accurate copy of records made by QuinStreet and maintained by QuinStreet in its database records associated with EmChoice. As illustrated in the fifth - sixth, eighth - ninth, eleventh - twelfth, fourteenth - fifteenth, nineteenth - twenty-first and twenty-third columns, the majority of each of the entries was created and last modified, or otherwise establish use of EmChoice by certain list owners prior to January 23, 2003. Information only tangentially-related to the production date of EmChoice or to the date EmChoice was used by certain list owners has been redacted to preserve, among other things, the confidentiality of QuinStreet's business practices, trade secrets and other proprietary information.

14. Collectively, the facts alleged in this declaration and supported in Exhibits A-F illustrate that my Co-Inventors and I, together with QuinStreet, developed, marketed and put the EmChoice product and service into production prior to January 23, 2003. Because the EmChoice product and service, from a time prior to January 23, 2003, was (1) capable of performing or causing the performance of each of the method claims presently pending in the Application; and (2) contained each of the features of each of the apparatus claims presently pending in the Application, the Invention was reduced to practice prior to January 23, 2003.

15. I further declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both under Section 1001 of Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of the application or any patent issuing thereon.

Respectfully submitted,


Bronwyn Syiek